IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

AMERICAN WASTE MANAGEMENT AND RECYCLING, LLC. Plaintiff, v. CEMEX PUERTO RICO; CANOPY ECOTERRA CORP.; XYZ INSURANCE COMPANIES Defendants.	Civil No. 07-01658-JAF Breach of contract; collection of moneys damages. Jury trial demanded.

INFORMATIVE MOTION

TO THE HONORABLE COURT:

Defendant CEMEX PUERTO RICO (hereinafter, CEMEX), through the undersigned attorneys, respectfully states and prays as follows:

1. On July 23, 2007, Plaintiff filed a Complaint against CEMEX Puerto Rico and Canopy Ecoterra, for breach of contract and damages, regarding plaintiff’s contract with Canopy Ecoterra Corp. (“Ecoterra”) for the dismantling, removal and sale of certain structures and scrap material found in CEMEX’s Ponce plant.

2. On August 8, 2007, process was served upon CEMEX along with a Motion for Temporary Restraining Order, a Motion for Preliminary Injunction and Memorandum of Law in

Dockets.Justia.com

Support Thereof, and a Motion for Hearing on TRO. The Court held a hearing on August 10, 2007.

3. After the parties' arguments, this Honorable Court ordered the parties to meet and to file a report regarding a possible out-of-court agreement limited to the issue raised in the Motion for a Temporary Restraining Order, specifically, the removal of machinery and containers and certain cargo allegedly belonging to Plaintiff.

4. The Parties met after the hearing and discussed the different issues involved. However no agreement was reached.

5. Plaintiff wants to remove the containers that have already been loaded; as to the scrap material that has already been dismantled (or mostly dismantled); plaintiffs would load the empty containers with it, and remove it from the facilities. They would then dismantle and remove their machinery from the CEMEX premises.

6. Canopy Ecoterra does not object to the removal of the empty containers and machinery belonging to Plaintiff. However, Ecoterra disagrees with Plaintiff's removal of any material. Ecoterra would also share a portion of the profits from the materials already located in the containers.

7. CEMEX has no objection to either party's request, because it is not a party to the agreement between Ecoterra and plaintiff. CEMEX stayed all works in its Ponce facilities once the dispute between plaintiff and Ecoterra arose, until they reach some sort of agreement. However, this controversy is strictly between contractor and subcontractor and does not involve CEMEX in any way. Cemex does have an interest in the prompt resolution of this controversy.

WHEREFORE, CEMEX Puerto Rico prays this Court to accept this motion as complying with the Honorable Court's Order.

I HEREBY CERTIFY that today August 13, 2007, I electronically filed the foregoing with the Clerk of the Court using CM/ECF system which will send notification of such filing to all counsel of record.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 13th day of Agusut 2007.

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